



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON DC 20310-0111



January 18, 2001

REPLY TO
ATTENTION OF

Exemption Number 2001-0006

MEMORANDUM THRU ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF
THE ARMY
DIRECTOR OF THE ARMY STAFF

FOR CHIEF OF CHAPLAINS

SUBJECT: Chaplain, Chaplain Assistants and Director of Religious Education
Exemption

References:

a. Memorandum, SAMR, 14 August 2000, subject: Interim Guidance for Fiscal Year 2000 Inventory of Commercial Activities and Inherently Governmental Activities (Inventory).

b. Memorandum, DACH-ZA, 18 October 2000, subject: Chaplains and Chaplain Assistants Exemption from Private Sector Performance in Connection With the Federal Activities Inventory Reform (FAIR) Act and the Inventory.

I have determined that the functions performed by military chaplains and chaplain assistants in the operating and generating forces, and civilian employee directors of religious education in the generating forces are non-inherently Governmental functions that should be exempted from private sector performance on the basis of risk to national security. In making this determination, I have noted the unique problems associated with meeting the religious needs of our deployable military personnel in the operating forces. These problems are well described in *Katcoff v. Marsh*, 755 F.2d 223, 228 (2d Cir. 1985).

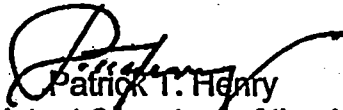
Civilian employees performing the director of religious education function will be reported in the Federal Activities Inventory Reform (FAIR) Act Inventory under Office of Management and Budget (OMB) Reason Code A. OMB Reason Code A is designed to identify specific non-inherently Governmental (commercial) activities that should not be subjected to privatization, outsourcing or competition for purposes of the FAIR Act. Military personnel performing these functions are not reported in the public Federal Activities Inventory Reform Act (FAIR) Inventory. The criteria for identifying the scope of this exemption are described in the enclosure.



Military chaplains are essential to maintaining morale, discipline and quality of life in a military organization. See, e.g., Katcoff, 755 F.2d at 237 ("the morale of our soldiers, their willingness to serve, and the efficiency of the Army as an instrument for our national defense rests in substantial part on the military chaplaincy, which is vital to our Army's functioning."). The chaplaincy function embraces not just the religious practices afforded by military chaplains, but integrally includes the provision of religious education and counseling soldiers and their family members. The director of religious education function in the generating forces is not severable from the chaplain and chaplain assistant function for purposes of packaging a competition.

Chaplain assistants provide for the protection and security of the chaplain, who is a non-combatant under the Geneva Convention. Chaplains and chaplain assistants work as a trained and ready unit ministry team. Chaplains and chaplain assistants must rotate in and out of garrison assignments into the operating forces to maintain a training base for this function.

I note that contract services have been provided on an exception basis when a chaplain and chaplain assistant are not available to meet religious support requirements for soldiers and their families, as determined by the commander and upon the advice of the staff chaplain. Such exceptions should be coordinated with this office.


Patrick T. Henry
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

Enclosure

Chaplain Exemption

Chaplains, Chaplain Assistants and Directors of Religious Education in the following MOS's, Occupational codes and MDEPS are exempted:

Chaplains – 56A and 56B-^{56D}

Chaplain Assistants – 56M (replaces 71M)

Directors of Religious Education – GS-1701-09, GS-1710-11 and AMSCO 96.3 (Base Ops)

Officer ASE: 7E, 7F, 7K, 7M w/ Ident K, L, or O